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**OFFICE OF PETITIONS**

In re Application of	:
Brendan D. Murray et al	:
Application No. 10/729,148	: DECISION ON PETITION
Filed: December 5, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TH1516 02 (US)	:

This is a decision on the petition filed October 22, 2004, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/566,461, filed May 8, 2000.

The petition is **DISMISSED** as moot.

The instant application was filed on December 5, 2003. Application No. 09/566,461 issued as Patent No. 6,653,514 on November 25, 2003. Therefore, Application No. 09/566,461 was not pending when the instant application was filed on December 5, 2003. Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the \$130 fee submitted for the petition is unnecessary. Accordingly, petitioner may request a refund of the \$130 petition fee submitted by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Petitioner should be aware that the fee for a petition under 37 CFR 1.78(a) is currently \$1,370.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

This matter is being referred to Technology Center AU 1621.

*Karen Creasy*

Karen Creasy  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy